



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/051,565	06/08/98	SELDES LACHTS	D 98227

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D 98227

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IM22/0104

EXAMINER

SHERRER, C

ART UNIT

PAPER NUMBER

1761

DATE MAILED:

01/04/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Advisory Action

Application No.
09/051,565

Applicant(s)

Seldeslachts

Examiner

Curtis E. Sherrer

Group Art Unit

1761



THE PERIOD FOR RESPONSE: [check only a) or b)]

- a) ☐ expires _____ months from the mailing date of the final rejection.
- b) ☐ expires either three months from the mailing date of the final rejection, or on the mailing date of this Advisory Action, whichever is later. In no event, however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

- ☒ Appellant's Brief is due two months from the date of the Notice of Appeal filed on Dec 21, 2000 (or within any period for response set forth above, whichever is later). See 37 CFR 1.191(d) and 37 CFR 1.192(a).

Applicant's response to the final rejection, filed on Dec 21, 2000 has been considered with the following effect, but is NOT deemed to place the application in condition for allowance:

- ☒ The proposed amendment(s):

- ☐ will be entered upon filing of a Notice of Appeal and an Appeal Brief.
- ☒ will not be entered because:
- ☒ they raise new issues that would require further consideration and/or search. (See note below).
- ☒ they raise the issue of new matter. (See note below).
- ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
- ☐ they present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: Applicants propose adding new process claims containing new limitations for which antecedent basis has not been provided.

- ☒ Applicant's response has overcome the following rejection(s):

None

- ☐ Newly proposed or amended claims _____ would be allowable if submitted in a separate, timely filed amendment cancelling the non-allowable claims.

- ☒ The affidavit, exhibit or request for reconsideration has been considered but does NOT place the application in condition for allowance because:

See attached.

- ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

- ☒ For purposes of Appeal, the status of the claims is as follows (see attached written explanation, if any):

Claims allowed: None

Claims objected to: None

Claims rejected: 28, 32, 33, and 35-62

- ☐ The proposed drawing correction filed on _____ ☐ has ☐ has not been approved by the Examiner.
- ☐ Note the attached Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Other

CURTIS E. SHERRER
PRIMARY EXAMINER
ART UNIT 1761

ADVISORY ACTION

Response to After Final Amendment

1. Applicants' arguments of 012/21/00 have been reviewed but not found to be persuasive. Specifically, Applicants first assert that the claims are not indefinite and that do not understand the meaning of the term "scope." The common meaning of this term is the extent or range of an activity or operation. For example, with reference to the claim phrase "substantially preventing foam," the scope, i.e., the range of foam prevention is unknown.
2. With regards to the obviousness rejection, Applicants assert that the method and device provide for unexpected results whereby the use of internal appliances provide for satisfactory elimination of DMS with a very low steam to wort ratio. Applicants further state that "by providing these elements [] and performing the method claimed" certain benefits result. It appears that Applicants agree that the benefits are only derived through the use of the process and that the apparatus itself does not obtain these benefits if operated in a different manner. Therefore, the apparatus is not found patentable in light of Applicants' assertions of unexpected results.
3. Because the proposed claims are not being entered, the arguments and the showing in the declaration are not considered commensurate in scope with the instantly claimed invention.
4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Curtis Sherrer whose telephone number is (703) 308-3847.

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The examiner can normally be reached on Tuesday through Friday from 6:30 to 4:30. The fax phone number for this Group is (703)-305-3602.

5. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0651.

A handwritten signature in black ink, appearing to read 'C. E. Sherrer', with a long horizontal flourish extending to the right.

Curtis E. Sherrer
Primary Examiner
January 2, 2001